

III. Claims 14-25, drawn to methods for obtaining (preserving) cell, classified in Class 435, subclass 240.45.

IV. Claims 26-56, drawn to methods of treating a human, classified in Class 424, subclass 101.

The Examiner contends that the above categories are directed to separate and distinct inventions. The Examiner states the categories as set forth above are properly restrictable because they involve distinct inventive concepts under 35 U.S.C. §103, involve distinct fields of search, and would involve distinct considerations as to patentability.

In order to be fully responsive, Applicants hereby provisionally elect the invention of Group I, claims 1-9, drawn to a hematopoietic stem cell, classified in Class 435, subclass 240.2, with traversal.

With respect to the Examiner's division of the invention into four groups, Applicants respectfully traverse.

The invention disclosed and claimed, and that which Applicants regard as their invention are all methods and compositions involving human neonatal or fetal hematopoietic stem cells and/or progenitor cells. The individual groups of claims specified by the Examiner are not distinct inventions, but rather, an intricate web of knowledge and continuity of effort which merit examination of all claims in a single application. Applicants respectfully request withdrawal of the requirement for restriction and examination of the instant claims in one application.

In the alternative, Applicants suggest that the restriction requirement be reconsidered and modified to group claims of categories I and III (all drawn to compositions or methods involving the cryopreservation of human neonatal or fetal hematopoietic stem and/or progenitor cells of the

blood) together in one application. Thus, Applicants propose that the following claims be examined in a single application: claims 1-9 and 14-25.

Applicants contend that the claims of Groups I and III are so closely interrelated as to merit examination in the same application. Applicants assert that they are entitled to the examination of claims 1-9 and 14-25 in a single application based on 37 C.F.R. §1.141(b) which states: "A group of claims of different categories in an application so linked as to form a single inventive concept are considered to be one invention." The claims of Groups I and III are so linked as to form a single inventive concept, namely the compositions or methods involving the cryopreservation of neonatal or fetal hematopoietic stem and/or progenitor cells of the blood. The compositions of Group I and the methods of Group III are all inextricably intertwined and interrelated, and thus are within one inventive concept. For this reason, Applicants request that the restriction requirement be reconsidered and modified so as to allow examination of claims 1-9 and 14-25 in one application.

If the Examiner would modify this present requirement for restriction, Applicants would provisionally elect the above-mentioned claims, claims 1-9 and 14-25, without traverse. Should such a modification be made, Applicants reserve the right to prosecute the subject matter of claims 10-13 and 26-56.

Applicants retain the right to petition from the  
restriction requirement under 37 C.F.R. §1.144.

Respectfully submitted,

PENNIE & EDMONDS  
Attorneys for Applicants

By S. Leslie Misrock / Reg. No. 32,605  
S. Leslie Misrock (Reg. No. 18872)

Dated: 1-24-89

(212) 790-9090